

**FLOOD DIVERSION BOARD OF AUTHORITY
DECEMBER 17, 2015—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, December 17, 2015, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commission representative Darrell Vanyo; Cass County Commissioner Mary Scherling; West Fargo City Commissioner Mike Thorstad; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Mike Williams; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Nancy Otto. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District.

Staff members and others present: Cass County Administrator Keith Berndt; Interim Fargo City Administrator Bruce Grubb; Moorhead City Manager Michael Redlinger; Clay County Administrator Brian Berg; Cass County Engineer Jason Benson; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Bruce Spiller, PE, CH2M; Colonel Dan Koprowski, St. Paul District Commander, Corps of Engineers; Aaron Snyder, Branch Chief for Project Management & Development, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

2. FY2016 ENERGY AND WATER FUNDING BILL

Mr. Vanyo briefly discussed a news release from Senator John Hoeven regarding a year-end omnibus funding bill for FY2016. The bill includes funding for the Army Corps of Engineers to select up to six new construction starts—five of the starts must be for navigation or flood control and one must be for environmental restoration. Congress will consider the bill on Friday and if passed, the Corps of Engineers would go through the selection process to choose the projects.

3. MINUTES APPROVED

MOTION, passed

Mr. Mahoney moved and Mr. Williams seconded to approve the minutes from the November 12, 2015, meeting as presented. Motion carried.

4. AGENDA ORDER

MOTION, passed

Mr. Mahoney moved and Mr. Williams seconded to approve the order of the agenda. Motion carried.

5. MANAGEMENT UPDATE

Program management consultant (PMC) report

Bruce Spiller provided an update on activities over the last month including work on in-town levees and the bid schedule for 2016; ongoing construction on 24 homes in Oxbow; asbestos abatement and demolition of Park East Apartments; demolition of one home in Oxbow and moving of one home in Oxbow; development of procurement documents for the Public-Private Partnership (P3); and negotiation of the Project Partnership Agreement (PPA) with the Corps.

Corps of Engineers report

Col. Koprowski said that General Bostick is impressed with the teamwork between the local sponsors and the Corps of Engineers on this project. He said the Corps continues to collaborate on alternate financing and the split delivery plan. Also, the Corps is ready to assist the MN DNR on responses to public comments associated with the EIS process.

6. ADMINISTRATIVE/LEGAL UPDATE**P3 Legal Services**

Attorney John Shockley said eight responses were received as a result of the Request for Qualifications (RFQ's) for P3 legal services. A subcommittee interviewed three firms and recommend hiring Ashurst Law Firm out of New York. He said a temporary work order has been drafted in order to have the law firm conduct the initial review of the PPA in regard to the P3 procurement and delivery. The work order is in an amount not to exceed \$100,000.

MOTION, passed

Mr. Mahoney moved and Ms. Otto seconded to approve AWD-00055 in an amount not to exceed \$100,000. On roll call vote, the motion carried unanimously.

7. TECHNICAL UPDATE**Recommended Policy Actions**

Mr. Spiller said revisions have been drafted for consideration to the detention funding policy. The updates include matching the National Resources Conservation (NRC) three-year duration for the watershed plan development process, inclusion of Diversion Authority contact information, and name change throughout the policy from the Fargo-Moorhead Diversion Authority (FMDA) to the Metro Flood Diversion Authority (MFDA).

MOTION, passed

Mr. Olson moved and Mr. Campbell seconded to approve the revisions to the MFDA Detention Funding Policy Manual. Motion carried.

Recommended Contract Actions Summary

Mr. Spiller discussed Change Orders, Authority Work Directives and Retention Phase I Funding:

Change Orders

- Industrial Builders, Inc. Change Order No. 5—additional physical model test to accommodate wet well modification design, reduction in wet well vacuum line size, change in pump station veneer and cost for cold weather construction associated with 2nd Street North Pump Station project in the amount of \$7,614.93.
- Industrial Builders Change Order No. 4—connect bridge lighting and dispose of excavated concrete associated with 2nd Street North, South of Pump Station in the amount of \$6,985.96.

Authority Work Directive

- Terracon AWD-00053—asbestos abatement monitoring and quality assurance services for Park East Apartments demolition project in the amount of \$32,920.
- HMG AWD-00054—engineering services and design update for portion of pump station and gate well facilities for OHB ring levee in the amount of \$100,000.
- Ashurst Law Firm AWD-00055—negotiation assistance for PPA in an amount not to exceed \$100,000.

Retention Phase 1 Project Funding

- Buffalo Red River Watershed District – Upper South Branch Water Project for \$74,022.
- Buffalo Red River Watershed District – Barnesville Township Water Project for \$60,746.

MOTION, passed

Mr. Mahoney moved and Mr. Williams seconded to approve the appropriation of funds for the above listed Change Orders, Authority Work Directives, and Retention Phase 1 Funding; and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. On roll call vote, the motion carried unanimously.

8. PUBLIC OUTREACH UPDATECommittee report

Mr. Olson discussed community outreach efforts including a presentation given to Stanley Township by the Cass County Engineer, and presentations at the North Dakota Joint Water Convention. Mr. Olson said the Diversion Authority continues to have a monthly article in the North Dakota Water Magazine to provide updates on the project.

Daron Selvig from AE2S provided an update on the newsletter and website. The new version of the website went live in October and has seen an increase in traffic from the use of mobile devices.

Business Leaders Task Force

The task force and Diversion Authority representatives continue to meet with local business leaders to discuss the project. The task force also continues to work on marketing strategies, including a television commercial that has been shown during NDSU Bison football games.

Mr. Williams left the meeting at 4:00 PM.

9. LAND MANAGEMENT UPDATECommittee report

Mr. Mahoney said the Land Management Committee met on December 15th. One property acquisition was approved in Oxbow.

CCJWRD update

Mr. Brodshaug referred to the handout regarding land acquisitions completed through November 30, 2015, which includes completed acquisitions, budget figures, and completed negotiations. He said construction on homes continues in Oxbow; asbestos abatement and demolition of Park East Apartments is underway; and critical in-town property negotiations continue with Mid-America Steel, Case Plaza, Shakey's and MEPS properties.

10. FINANCE UPDATECommittee report

Michael Montplaisir Cass County Auditor, said the Finance Committee met on December 15th. The committee approved one property acquisition in Oxbow. The committee discussed the budget for next year and current funds on hand as well as other financing that will be needed for project expenses.

FY 2016 Budget Approval

Mr. Montplaisir said the proposed FY2016 budget is \$237.5 million. He said all six member entities will be considering the budget within the next month. Land acquisition and construction are the largest expenses for the year.

MOTION, passed

Mr. Mahoney moved and Ms. Otto seconded to approve the FY 2016 budget for the Diversion Authority. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are with Fredrikson & Byron, P.A. for government relations services; Erik R. Johnson & Associates, Ltd., Dorsey & Whitney, Nixon Peabody and Ohnstad Twichell, P.C. for legal services; and CCJWRD for costs associated with in-town levees, access issues, Diversion Project Assessment Committee (DPAC) work, OHB levee, and Oxbow Country Club golf course construction.

MOTION, passed

Mr. Mahoney moved and Mrs. Scherling seconded to approve the vouchers in the amount of \$4,109,539.07 for November, 2015. On roll call vote, the motion carried unanimously.

11. NEXT MEETING DATE

The next meeting will be held on Thursday, January 14, 2016, at 3:30 PM.

12. ADJOURNMENT***MOTION, passed***

On motion by Ms. Otto, seconded by Mrs. Scherling, and all voting in favor, the meeting was adjourned at 4:14 PM.

Minutes prepared by Heather Worden, Cass County Administrative Assistant